

United States District Court, Northern District of Illinois

(21)

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	96 C 1122	DATE	11/9/2001
CASE TITLE	Builders Association etc. Vs. City of Chicago		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]



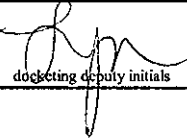
MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. The City objects to the quashing of approximately 500 subpoenas. ECA wants attorneys' fees arising from its successful efforts to resist the subpoenas. Both objections are overruled. Status hearing set for November 27, 2001 at 9:45am.

- (11) ☒ [For further detail see order attached to the original minute order.]

No notices required, advised in open court.	 FILED FOR DOCKETING 01 NOV -9 AM 8:20	number of notices	Document Number 
No notices required.		NOV 09 2001 date docketed	
Notices mailed by judge's staff.		 docketing deputy initials	
Notified counsel by telephone.		date mailed notice	
<input checked="" type="checkbox"/> Docketing to mail notices.		mailing deputy initials	
Mail AO 450 form.			
Copy to judge/magistrate judge.			
WAH	courtroom deputy's initials	Date/time received in central Clerk's Office	

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The central issue here is whether the City had discriminated against minority contractors or had stood passively by when it knew that contractors were discriminating against minority contractors on public construction jobs, thus justifying the adoption of an affirmative action program in April 1985, and then amended in 1990. The City claims that it is enough that it had a strong basis in evidence then to justify the program, and that it can introduce later acquired evidence to bolster that earlier conclusion. That may well be so, and Magistrate Judge Brown assumed that to be so. She also dealt directly with the proposed scaling back of the scope of the subpoenas.

But the subpoenas, even scaled back, go far beyond that issue. Even as modified, they seek a host of documents from 1978 to the present, including all documents relating to private sector projects. Magistrate Judge Brown recognized that the burden of production was great indeed; she believed that much of the resulting mass of raw data would be, at best, of questionable relevance; and she questioned whether even a subset of the data would be useful in constructing a meaningful statistical model. We think she had ample reasons for concluding that the subpoenas imposed an undue burden. The issue here is not whether there has been or is discrimination in the construction industry; it is whether the City was justified in requiring a set-aside program for public projects in 1985 and 1990. We conclude that Magistrate Judge Brown was well within her discretion in quashing the subpoenas.

We overrule the objection of ECA because it has nothing to object about. Magistrate Judge Brown has not yet ruled on its application. Accordingly, the appeal is premature.

Nov 9, 2001.



JAMES B. MORAN
Senior Judge, U. S. District Court